

LOCAL

# Minnesota cities, counties paid \$60.8M in police misconduct claims in past decade

From 2007 to 2017, Minnesota jurisdictions made at least 933 payouts to citizens for alleged misconduct. And they're on the rise.

By Randy Furst (<http://www.startribune.com/randy-furst/10644886/>) and MaryJo Webster (<http://www.startribune.com/maryjo-webster/303594441/>) Star Tribune

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On-duty misconduct by Minnesota law enforcement officers has become an expensive proposition.

Over the past 11 years, at least \$60.8 million has been paid out statewide to people who have made misconduct allegations, according to data compiled by the Star Tribune.

From 2007 to 2017, jurisdictions in Minnesota have made at least 933 payouts to citizens for alleged misconduct. And they're on the rise. The average has grown from about 50 payouts per year to around 100.

In many cases, government entities have made the payouts in settlements without going to trial or acknowledging wrongdoing. Most payouts are for a few thousand dollars for accusations ranging from being unjustly sprayed by a chemical irritant to an unjustified arrest. The smallest, issued in 2009 by the city of Eagan, was for \$21.

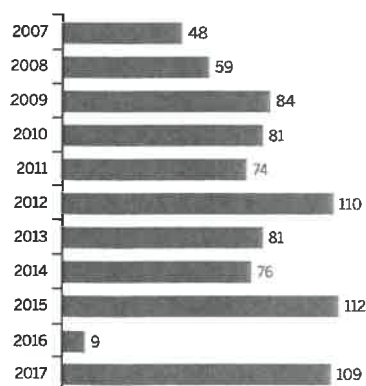
## Payouts by police

Displays the number of payouts and total money paid by the selected Minnesota law enforcement agency.

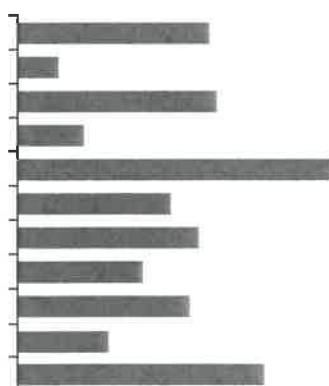
### ► ALL AGENCIES

Payment Count

Total Paid



934



\$60,792,470



STAR TRIBUNE FILE

Minneapolis was the behemoth when it came to payouts over police misconduct, with nearly \$21 million over the past 11 years — 35 percent

However, in 11 payouts totaling \$1 million or more, individuals were often seriously injured or killed by law enforcement officers. The year 2017 was the second most expensive for government entities statewide, with \$8.4 million in payouts. It was exceeded only in 2011, when the total included \$3.6 million to settle claims and a class-action suit against the Metro Gang Strike Force, which was shut down in 2009.

EXHIBIT

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Payouts over misconduct allegations are more common in the metro area. Outstate Minnesota, which accounts for just over one-third of the state's population, accounts for a fifth of what's paid out.

The suicide of Kathryn Schneider in a Koochiching County jail in 2014 led to a \$2 million settlement, the largest outstate payout involving sworn officers.

Minneapolis was the behemoth when it came to payouts, with nearly \$21 million over the past 11 years — 35 percent of the state total, compared to 8 percent for St. Paul. Four of the 11 payouts of \$1 million or more involving law enforcement conduct came from Minneapolis, including the largest: \$4.5 million paid in 2007 to former police officer Duy Ngo, shot by another officer who mistook him for a fleeing suspect.

However, Minneapolis payouts may be trending downward. There were half as many payouts in 2017 compared to two years earlier, and about \$424,000 dispensed last year was the smallest amount since 2008.

Still, a single case could skew the numbers. The fatal shooting of Justine Ruszczyk Damond by officer Mohamed Noor in 2017 could set a record, perhaps \$10 million or more, legal observers say.

Minneapolis City Attorney Susan Segal said changes in the culture of policing — including use-of-force policies — likely contributed to the decrease. Police Chief Medaria Arradondo declined to comment, referring questions to the city attorney.

### **Mostly minorities**

Many of the alleged victims over the 2007-17 period are minorities. Five of the six largest payouts were to people of color, and the Metro Gang Strike Force payouts were made mostly to Latinos and blacks, according to Randy Hopper, the attorney who brought the class-action suit.

A common thread for the surge in payouts is the proliferation of surveillance cameras, bodycams, patrol car cameras and cellphones, which can sometimes provide an alternative narrative to the written reports filed by police.

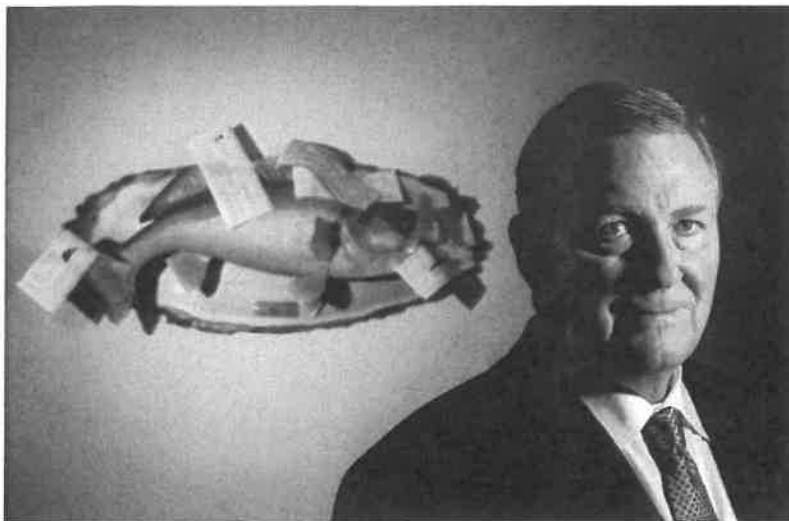
"I think video plays a big role" in the increase in misconduct allegations, said Teresa Nelson, legal director of the American Civil Liberties Union of Minnesota.

St. Paul Police Chief Todd Axtell noted that the growing national "conversation and awareness of police-community relations has made people more aware of what police interactions and arrests should look like. "When the interactions don't meet the standard of what the community should expect, people are more likely to report that conduct," he said.

St. Paul has a population of 302,000, compared to 413,000 in Minneapolis, but has paid out far fewer claims — 68, compared to 195 payouts in Minneapolis — since 2007. St. Paul's \$5 million in payouts is about one-fourth the Minneapolis total.

When an enforcement action requires the use of force, according to Axtell, St. Paul says it must satisfy three criteria: "Were the actions reasonable, necessary and done with respect?" His command staff reviews every use-of-force incident weekly.

The surge in payouts statewide does not surprise former Minneapolis Police Chief Tony Bouza, who says not enough has been done to rein in police behavior. He blames mayors who he believes take a hands-off approach to police policy. "It's a national problem," he said.



Aaron Lavinsky - Star Tribune

*Robert Bennett is a go-to attorney in Minnesota police misconduct cases. He keeps copies of checks related to them stuck in a mounted walleye.*

Robert Bennett has become the go-to attorney in major law enforcement conduct cases in Minnesota. He represents John Ruszczyk, the father of Justine Damond. Of the 11 misconduct cases of \$1 million or more, Bennett and his Minneapolis law firm have won eight of them. They are responsible for about half of the \$60 million paid out for officer misconduct; that does not include another \$20 million for misconduct by medical staff in Minnesota jails.

Bennett represented Duy Ngo and also won \$3 million for the family of David Smith (<http://www.startribune.com/may-25-minneapolis-pays-3-million-in-police-misconduct-case/208912661/>), whose death was captured on video as two officers held him down at the Minneapolis downtown YMCA, leading to asphyxiation.

Last summer, Bennett won a \$3 million payout in connection with the shooting death of Philando Castile (<http://www.startribune.com/philando-castile-family-reaches-3m-settlement-in-death/430840813/>) by St. Anthony officer Jeronimo Yanez during a traffic stop. The Castile settlement for police misconduct allegations was the largest for a Twin Cities suburb. It was only slightly larger than a 2015 payout by the city of Brooklyn Park of \$2.85 million, also engineered by Bennett's firm, that went to Shoua Yang. In 2014, Yang was shot three times by a probationary police officer after a family party.

Not every payout is seven figures. Gary Sauber, who operated a body shop in Buffalo Lake, won a \$25,000 settlement in 2010 after he was arrested and jailed for felony theft for refusing to return a pickup until the owner paid her repair bill. The charge was reduced to misdemeanor theft and then dismissed.

Deontrae Morehead got \$10,000 from the city of St. Paul after he was sprayed with a chemical irritant by police at a 2015 party. A misdemeanor charge of obstructing the legal process was later dismissed.

Although several Minnesota cities, including Minneapolis and St. Paul, are self-insured, most get their insurance through the League of Minnesota Cities Insurance Trust, with assets of \$450 million, said trust administrator Dan Greensweig. While the trust pays much of the money in settlements, it takes out insurance itself to cover part of the huge claims.

Cities may feel pressure to settle rather than face a public trial, said Michele Bratcher Goodwin, a law professor at the University of California-Irvine and a former University of Minnesota professor.

But Axtell said a settlement doesn't mean officers' actions were inappropriate or outside policy. It can be less costly for the city to make a payout than to take the case to court.

Andy Skoogman, executive director of the Minnesota Chiefs of Police Association, said the data reinforce the need for more training.

He said that last year lawmakers approved legislation mandating that one-third of the 48 hours of training that an officer must receive every three years must be devoted to handling conflict mediation, cultural diversity and crisis intervention.

The Minnesota Peace Officer Standards and Training Board reimburses agencies just over \$300 annually for training for every officer in Minnesota, but as a result of legislative action last year, the amount was raised to just under \$1,000, he said. "The investment by the state will hopefully result in fewer payouts and fewer violent encounters between police and citizens," said Skoogman.

Bennett remains skeptical. Training "does not appear to have any significant impact on lessening instances of police misconduct," he said. "The training needs the buy-in of the officer rank-and-file if it is to have any impact at all."

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